

JOURNAL OF THE HOUSE.

Tuesday, July 13, 2004.

Met at ten minutes after eleven o'clock A.M., with Mr. Donato of Medford in the Chair (having been appointed by the Speaker, under authority conferred by Rule 5, to perform the duties of the Chair).

Prayer was offered by the Reverend Robert F. Quinn, C.S.P., Chaplain of the House, as follows:

God of Goodness and Truth, we turn to You for guidance and direction as we take up the items on today's legislative calendar. As legislators in a diverse society with complex legislative issues, grant us the wisdom and the patience to examine all proposals carefully and to comprehend the logical impact of our decisions. We cannot address and resolve all legislative issues, all people and community needs, and all the expectations of the electorate. In these uneasy times, we can remain faithful to our goals, ideals, philosophical principles and our religious beliefs. May our thoughtful priorities and choices make our Commonwealth a great place to live, work, vacation and enjoy family and friends.

Prayer.

Grant Your blessings to the Speaker, the members and employees of this House and their families. Amen.

At the request of the Chair (Mr. Donato), the members, guests and employees joined with him in reciting the pledge of allegiance to the flag.

Pledge of
allegiance.

Message from the Governor — Section in Bill Reduced.

A message from His Excellency the Governor returning with a reduction in section 2 contained in the engrossed Bill relative to the financial stability in the city of Springfield [see House bill printed in House, No. 4799, amended] (for message, see House, No. 4971) was filed in the Office of the Clerk on Friday, July 9.

Springfield,
financial
stability.

The message was read; and, it was referred, under Rule 30, to the committee on Ways and Means.

Papers from the Senate.

The House Bill authorizing the town of Hamilton to convey certain land (House, No. 4449) came from the Senate passed to be engrossed, in concurrence, with an amendment in lines 3 and 4, striking out the words “. The parcel shall remain subject to a conservation restriction” (as changed by the Senate committee on Bills in the Third Reading) and inserting in place thereof the words “and the conservation restriction held by the Massachusetts Audubon Society on the parcel may be released”.

Hamilton,
convey
land.

Under suspension of Rule 35, on motion of Mr. Hill of Ipswich, the amendment (reported by the committee on Bills in the Third Reading to be correctly drawn) was considered forthwith; and it was adopted, in concurrence.

Fagota
Tupe,
sick leave
bank.

A Bill establishing a sick leave bank for Fagota Tupe, an employee of the Department of Correction (Senate, No. 2405) (on a petition), passed to be engrossed by the Senate, was read; and it was referred, under Rule 33, to the committee on Ways and Means.

Bills

Acton,
land.

Authorizing the Board of Selectmen of Acton to lease a certain parcel of land (Senate, No. 1981, amended in section 2, in line 8, by inserting after the word "project" the following: " , but paragraphs (b) and (g) of section 16 of said chapter 30B shall apply to the lease described in section 1") (on a petition) [Local Approval Received];

Taunton,
water and
sewer.
Nantucket,
housing
authority.

Relative to water and sewer service in the city of Taunton (Senate, No. 2213) (on a petition) [Local Approval Received];

Relative to the Nantucket Housing Authority (Senate, No. 2274, amended in section 1, by adding the following paragraph:

"For purposes of this act, the housing authority, or its designee, shall be in compliance if at least 25 per cent of the units to be developed on the land are for use in perpetuity by households earning below 80 per cent of the median income for Nantucket county, as defined periodically by the United States Department of Housing and Urban Development, and the remaining 75 per cent of the units shall be developed to be affordable to households earning 80 per cent to 150 per cent of the median income for Nantucket county, as defined by the United States Department of Housing and Urban Development.") (on Senate, No. 720) [Local Approval Received];

Quincy
College.

Authorizing part-time employment at Quincy College by employees of the city of Quincy (Senate, No. 2387, amended by striking out section 1 and inserting in place thereof the following section:

"SECTION 1. Section 20 of chapter 268A of the General Laws shall not prohibit a municipal employee of the city of Quincy from receiving compensation for part-time employment at Quincy College, if that employee does not participate in, or have official responsibility for, the financial management of Quincy College."; and by striking out the title and inserting in place thereof the following title: "An Act authorizing part-time employment at Quincy College by employees of the city of Quincy.") (on a petition) [Local Approval Received];

Severally passed to be engrossed by the Senate, were read; and they were referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Petitions were referred, in concurrence, as follows:

Rockland,
capital
Planning.

Petition (accompanied by bill, Senate, No. 2435) of Michael W. Morrissey and Robert J. Nyman (by vote of the town) for legislation relative to the charter of the town of Rockland, Capital Planning Committee;

Rockland,
collector.

Petition (accompanied by bill, Senate, No. 2436) of Michael W. Morrissey and Robert J. Nyman (by vote of the town) for legislation relative to the charter of the town of Rockland, Town Collector;

Rockland,
administrator.

Petition (accompanied by bill, Senate, No. 2437) of Michael W. Morrissey and Robert J. Nyman (by vote of the town) for legislation relative to the charter of the town of Rockland, Town Administrator;

Petition (accompanied by bill, Senate, No. 2438) of Michael W. Morrissey and Robert J. Nyman (by vote of the town) for legislation relative to the charter of the town of Rockland, Finance Committee; and

Rockland,
finance
committee.

Petition (accompanied by bill, Senate, No. 2440) of Pamela P. Resor and Stephen P. LeDuc (with approval of the mayor and city council) for legislation relative to the Community Development Authority in the city of Marlborough;

Marlborough,
development.

Severally to the committee on Local Affairs and Regional Government.

Petition (accompanied by bill, Senate, No. 2441) of Stanley C. Rosenberg and Peter V. Kocot (with approval of the mayor and city council) for legislation relative to civil service positions in the city of Northampton. To the committee on Public Service.

Northampton,
police.

Petition (accompanied by bill, Senate, No. 2439) of Robert A. O'Leary and Shirley Gomes (by vote of the town) for legislation to enable the town of Provincetown to expand the local room occupancy tax base in said town. To the committee on Taxation.

Provincetown,
room tax.

A petition of Steven A. Baddour and Brian S. Dempsey for legislation relative to the inspection of air tanks, came from the Senate referred, under suspension of Joint Rule 12, to the committee on Public Safety.

Air tanks,
inspection.

The House then concurred with the Senate in the suspension of said rule; and the petition (accompanied by bill, Senate, No. 2445) was referred, in concurrence, to the committee on Public Safety.

Reports of Committees.

By Mr. Scaccia of Boston, for the committee on Rules, asking to be discharged from further consideration of the order relative to authorizing the committee on Housing and Urban Development to make an investigation and study of certain Senate and House documents concerning rent escrow (House, No. 4592),— and recommending that the same be recommitted to the committee on Housing and Urban Development. Under Rule 42, the report was considered forthwith; and it was accepted.

Rent
escrow,
study.

By Mr. Scaccia of Boston, for the committee on Rules, on the Order relative to authorizing the committee on State Administration to make an investigation and study of certain Senate and House documents concerning the disposition of public real property in the Commonwealth (House, No. 4854) reported, in part, asking to be discharged from further consideration

Public
property,
study.

Of the petition (accompanied by bill, House, No. 3595) of Donald F. Humason, Jr. and Michael R. Knapik that the Division of Capital Asset Management and Maintenance be directed to convey a certain parcel of land at the Western Massachusetts Hospital in the city of Westfield to said city; and

West field,
land
conveyance.

Of the petition (accompanied by bill, House, No. 4335) of Daniel E. Bosley (with the approval of the mayor and city council) that the Division of Capital Asset Management and Maintenance be authorized to convey certain parcels of land in the city of North Adams to said city;

North
Adams,
land
conveyance.

And recommending that the same severally be recommitted to the committee on State Administration.

Under Rule 42, the reports severally were considered forthwith; and they were accepted.

Berkshire County
Development
Corporation.

Mr. Scaccia of Boston, for the committee on Rules, on the Order relative to authorizing the committee on Taxation to make an investigation and study of certain House documents concerning revenue and taxation matters in the Commonwealth (House, No. 4651) reported, in part, asking to be discharged from further consideration of the petition (accompanied by bill, House, No. 3749) of Peter J. Larkin, Shaun P. Kelly, William Smitty Pignatelli and Andrea F. Nuciforo, Jr., relative to increasing the time in which real property owned by the Central Berkshire County Development Corporation may be exempt from taxation by the city or town in which such property is located,— and recommending that the same be recommitted to the committee on Taxation. Under Rule 42, the report was considered forthwith; and it was accepted.

Quincy,
city council
vacancies.

By Mr. Kujawski of Webster, for the committee on Steering, Policy and Scheduling, asking to be discharged from further consideration of the Bill relative to filling vacancies in the city council of the city of Quincy (Senate, No. 2260),— and recommending that the same be referred to the committee on Election Laws. Under Rule 42, the report was considered forthwith; and it was accepted. Sent to the Senate for concurrence in the reference.

Springfield,
Peter Pan
Bus Lines.

By Mr. Kujawski of Webster, for the committee on Steering, Policy and Scheduling, asking to be discharged from further consideration of the Bill authorizing the city of Springfield to abate certain taxes (House, No. 3716),— and recommending that the same be referred to the committee on Rules. Under Rule 42, the report was considered forthwith; and it was accepted.

Foxborough
Housing
Authority.

By Mr. Hall of Westford, for the committee on State Administration, on House, No. 4933, a Bill authorizing the Commissioner of the Division of Capital Asset Management and Maintenance to convey certain land to the Foxborough Housing Authority (House, No. 4976). Read; and referred, under Rule 33, to the committee on Ways and Means.

Recess.

At twenty-six minutes after eleven o'clock A.M., on motion of Mr. Peterson of Grafton (Mr. Donato of Medford being in the Chair), the House recessed until one o'clock P.M.; and at that time the House was called to order with Mr. DiMasi of Boston in the Chair.

Transportation
reform.

The Speaker being in the Chair,— Mr. Rogers of Norwood, for the committee of conference on the disagreeing votes of the two branches, with reference to the Senate amendment (striking out all after the enacting clause and inserting in place thereof the text of

contained in Senate document numbered 2401) of the House Bill making appropriations for the fiscal year 2005 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for the interest, sinking fund and serial bond requirements and for certain permanent improvements (House, No. 4601), reported, in part, a Bill to restructure the transportation system of the Commonwealth (House, No. 4972).

Under suspension of the rules, on motion of Mr. Wagner of Chicopee, the report was considered forthwith.

After debate the report was accepted. Sent to the Senate for concurrence.

By Mrs. Parente of Milford, for the committee on Long-Term Debt and Capital Expenditures, that the Bill establishing the Mattapoisett River Valley Water District (House, No. 4839) ought to pass.

Mattapoisett
River Valley
Water District.

Under suspension of the rules, on motion of Mr. Straus of Mattapoisett (Mr. Wagner of Chicopee being in the Chair), the bill was read a second time forthwith; and it was ordered to a third reading.

By Mr. Rogers of Norwood, for the committee on Ways and Means, that the Bill authorizing certain borrowing by the town of Tewksbury (House, No. 4813) [Local Approval Received] ought to pass with an amendment substituting therefor a bill with the same title (House, No. 4965). Referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Tewksbury,
borrowing.

Mr. Kujawski of Webster, for said committee, reported that the matter be scheduled for consideration by the House.

Under suspension of Rule 7A, on motion of Mr. Miceli of Wilmington, the bill was read a second time forthwith.

The amendment recommended by the committee on Ways and Means then was adopted; and the substituted bill was ordered to a third reading.

Report of the committee on State Administration, ought NOT to pass (under Joint Rule 10), on the petition (accompanied by bill, House, No. 4829) of Lewis G. Evangelidis that the Division of Capital Asset Management and Maintenance be authorized to convey a certain parcel of land in the town of Holden to John P. Foley and Janet Foley.

Holden,
land.

Under suspension of the rules, on motion of Mr. Hall of Westford, the report was considered forthwith.

Pending the question on acceptance of the report, the petition was recommitted, on further motion of the same member, to the committee on State Administration.

Emergency Measure.

The engrossed Bill establishing a sick leave bank for Melissa J. Cornell, an employee of the Trial Court of the Commonwealth (see House, No. 4765), having been certified by the Clerk to be rightly and truly prepared for final passage, was considered, the question being on adopting the emergency preamble.

Melissa J.
Cornell.

A separate vote was taken, as required by the provisions of Article XLVIII (as amended by Article LXVII) of the Amendments to the Constitution; and the preamble was adopted, by a vote of 7 to 0. Sent to the Senate for concurrence.

Engrossed Bills.

Engrossed bills

Further regulating public construction in the Commonwealth (see Senate, No. 2358, amended) (which originated in the Senate); and

Authorizing the Division of Capital Asset Management and Maintenance to convey a certain parcel of land in the town of Plainville (see House, No. 4201) (which originated in the House);

In respect to each of which the Senate had concurred in adoption of the emergency preamble, were passed to be enacted; and they were signed by the acting Speaker and sent to the Senate.

The engrossed Bill relative to community based juvenile justice programs (see House, No. 4924, amended) (which originated in the House) (which had been returned by His Excellency the Governor with recommendation of amendment), having been certified by the Clerk to be rightly and truly prepared for final passage, was passed to be re-enacted, in its amended form; and it was signed by the acting Speaker and sent to the Senate.

Engrossed bills

Relative to certain distinctive registration plates (see Senate, No. 2006, amended) (which originated in the Senate);

Relative to certain health premium payments made by the town of Mashpee (see House, No. 4085);

Replacing the existing harbor line and to establish a new harbor line in Gloucester Harbor (see House, No. 4265);

Designating a certain traffic island in the city of Gloucester as the Paul Bergmann Memorial Traffic Island (see House, No. 4284); and

Authorizing the town of Brookline to fix reasonable fees for permits granted by the chief of its fire department (see House, No. 4403);

(Which severally originated in the House);

Severally having been certified by the Clerk to be rightly and truly prepared for final passage, were passed to be enacted; and they were signed by the acting Speaker and sent to the Senate.

Reconsideration.

Mr. Turkington of Falmouth moved that the vote be reconsidered by which the House, on Thursday last, passed to be engrossed the House Bill relative to oil spill prevention and response in Buzzards Bay and other harbors and bays in the Commonwealth (House, No. 4831, amended); and the motion to reconsider prevailed.

Pending the recurring question on passing the bill to be engrossed, the same member moved that it be amended in section 5, in line 412, by striking out the word "The" and inserting in place thereof the words "Subject to appropriation the"; and in line 425 by inserting after the word "insurance." the following sentence: "In the

event of an emergency, the Commissioner may expend money from the fund without a legislative appropriation provided subsequent to such an expenditure, the Commissioner submits a detailed report to the Committee on Ways and Means."

The amendments were adopted; and the bill (House, No. 4831, amended) was passed to be engrossed. Sent to the Senate for concurrence.

Motions to Discharge Certain Matters in the Orders of the Day.

Mr. Rogers of Norwood moved that the engrossed Bill relative to the Uncompensated Care Trust Fund (see House, No. 4919), being a printed copy of Section 264 contained in the engrossed Bill making appropriations for the fiscal year 2005 (House, No. 4850), which had been returned by His Excellency the Governor with recommendation of amendment (for message, see Attachment T of House, No. 4901) be discharged from its position in the Orders of the Day and considered forthwith, under suspension of Rule 47; and the motion prevailed.

The committee on Bills in the Third Reading reported recommending that the amendment recommended by the Governor be considered in the following form:

By striking out all after the enacting clause and inserting in place thereof the text contained in said Attachment T of said House, No. 4901 (as perfected by said committee).

The report was accepted.

The amendment recommended by the Governor was rejected.

The same member then moved that the bill be amended by striking out all after the enacting clause and inserting in place thereof the text contained in House document numbered 4974.

The amendment was adopted. Sent to the Senate for its action.

Mr. Rogers of Norwood moved that the engrossed Bill relative to the ability of essential community providers to furnish human services (see House, No. 4920), being a printed copy of Section 268 contained in the engrossed Bill making appropriations for the fiscal year 2005 (House, No. 4850), which had been returned by His Excellency the Governor with recommendation of amendment (for message, see Attachment U of House, No. 4901) be discharged from its position in the Orders of the Day and considered forthwith, under suspension of Rule 47; and the motion prevailed.

The committee on Bills in the Third Reading reported recommending that the amendment recommended by the Governor be considered in the following form:

By striking out all after the enacting clause and inserting in place thereof the text contained in said Attachment U of said House, No. 4901 (as perfected by said committee).

The report was accepted.

The amendment recommended by the Governor was rejected.

The same member then moved that the bill be amended by striking out all after the enacting clause and inserting in place thereof the text contained in House document numbered 4973.

The amendment was adopted. Sent to the Senate for its action.

Uncompensated
Care Trust
Fund.

Human
services.

Retirement

Bills
enacted.

Bill
re-enacted.

Bills
enacted.

Bays and
harbors,
oil spills.

systems,
interest.

Mr. Rogers of Norwood moved that the engrossed Bill relative to interest from certain retirement systems (see House, No. 4906), being a printed copy of Section 68 contained in the engrossed Bill making appropriations for the fiscal year 2005 (House, No. 4850), which had been returned by His Excellency the Governor with recommendation of amendment (for message, see Attachment G of House, No. 4901) be discharged from its position in the Orders of the Day and considered forthwith, under suspension of Rule 47; and the motion prevailed.

The committee on Bills in the Third Reading reported recommending that the amendment recommended by the Governor be considered in the following form:

By striking out all after the enacting clause and inserting in place thereof the text contained in said Attachment G of said House, No. 4901 (as perfected by said committee).

The report was accepted.

The amendment recommended by the Governor then was adopted. Sent to the Senate for its action.

Creditable
service,
buyback.

Mr. Rogers of Norwood moved that the engrossed Bill relative to the buyback of creditable service (see House, No. 4907), being a printed copy of Section 69 contained in the engrossed Bill making appropriations for the fiscal year 2005 (House, No. 4850), which had been returned by His Excellency the Governor with recommendation of amendment (for message, see Attachment H of House, No. 4901) be discharged from its position in the Orders of the Day and considered forthwith, under suspension of Rule 47; and the motion prevailed.

The committee on Bills in the Third Reading reported recommending that the amendment recommended by the Governor be considered in the following form:

By striking out all after the enacting clause and inserting in place thereof the text contained in said Attachment H of said House, No. 4901 (as perfected by said committee).

The report was accepted.

The amendment recommended by the Governor then was adopted. Sent to the Senate for its action.

Creditable
service.

Mr. Rogers of Norwood moved that the engrossed Bill relative to creditable service (see House, No. 4908), being a printed copy of Section 69A contained in the engrossed Bill making appropriations for the fiscal year 2005 (House, No. 4850), which had been returned by His Excellency the Governor with recommendation of amendment (for message, see Attachment I of House, No. 4901) be discharged from its position in the Orders of the Day and considered forthwith, under suspension of Rule 47; and the motion prevailed.

The committee on Bills in the Third Reading reported recommending that the amendment recommended by the Governor be considered in the following form:

By striking out all after the enacting clause and inserting in place thereof the text contained in said Attachment I of said House, No. 4901 (as perfected by said committee).

The report was accepted.

The amendment recommended by the Governor then was adopted. Sent to the Senate for its action.

Mr. Rogers of Norwood moved that the engrossed Bill providing for expenditure for the Uncompensated Care Trust Fund (see House, No. 4921), being a printed copy of Section 269 contained in the engrossed Bill making appropriations for the fiscal year 2005 (House, No. 4850), which had been returned by His Excellency the Governor with recommendation of amendment (for message, see Attachment V of House, No. 4901) be discharged from its position in the Orders of the Day and considered forthwith, under suspension of Rule 47; and the motion prevailed.

Uncompensated
Care Trust
Fund.

The committee on Bills in the Third Reading reported recommending that the amendment recommended by the Governor be considered in the following form:

By striking out all after the enacting clause and inserting in place thereof the text contained in said Attachment V of said House, No. 4901 (as perfected by said committee).

The report was accepted.

The amendment recommended by the Governor was rejected.

The same member then moved that the bill be amended by striking out all after the enacting clause and inserting in place thereof the text contained in House document numbered 4975.

The amendment was adopted. Sent to the Senate for its action.

Mrs. Poirier of North Attleborough moved that the engrossed Bill prohibiting discrimination against veterans in employment (see House, No. 1053), which had been returned by His Excellency the Governor with recommendation of amendment (for message, see House, No. 4802) be discharged from its position in the Orders of the Day and considered forthwith, under suspension of Rule 47; and the motion prevailed.

Veterans,
employment.

The amendment then was adopted in the following form (as approved by the committee on Bills in the Third Reading):

By striking out all after the enacting clause and inserting in place thereof the following:

“SECTION 1. Section 4 of chapter 151B of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by inserting after subsection 1C the following subsection:—

1D. For an employer, an employment agency, the commonwealth or any of its political subdivisions, by itself or its agents, to deny initial employment, reemployment, retention in employment, promotion, or any benefit of employment to a person who is a member of, applies to perform, or has an obligation to perform, service in a uniformed military service of the United States including the National Guard, on the basis of that membership, application or obligation.

SECTION 2. Chapter 115 of the General Laws is hereby amended by inserting after section 2A the following section:—

Section 2B. There shall be a commission on veterans employment opportunities that shall investigate whether veterans are subjected to employment discrimination on the basis of their status as veterans which shall report its findings and recommendation annually on

March 1 to the secretary of veterans affairs. Said commission shall consist of 5 persons who are as follows: the secretary of veterans affairs or his designee, the secretary of economic development or his designee, a member appointed by the speaker of the house, a member appointed by the president of the senate, and a veteran appointed by the governor.”.

Sent to the Senate for its action.

Recess.

Recess.

At ten minutes before five o'clock P.M., without proceeding to the matters in the Orders of the Day, the Speaker took the Chair and, on motion of Mr. Jones of North Reading, the House recessed until the hour of eleven o'clock A.M. on Wednesday, July 14.